

## **REMARKS**

### **Status Of Claims**

Claims 179 through 210, 212 through 220 and 221 through 226 were pending in this application.

Claims 179 through 210, 212 through 220 and 221 through 226 stand rejected by the Examiner.

Claims 179 through 182, 187, 191, 192, 198 through 201, 206, 208, 209, 221 through 223 have been amended.

Claims 227 through 232 have been added.

Claims 179 through 210, 212 through 220, and 221 through 232 are now pending in this application.

### **Rejections Under 35 USC § 103**

The Examiner has rejected Claims 179 through 210 and 212 through 226<sup>1</sup> as being unpatentable over United States Application Publication No. 2001/0044743 to McKinley (hereinafter "McKinley") in view of LetsTalk.com (hereinafter "LetsTalk"). Specifically, the Examiner has rejected independent Claims 179, 198, and 221 as being unpatentable, in part, because McKinley discloses:

. . . maintaining a database comprising product or service offerings, wherein each of the product or service offerings is classified in said database in one or more geographic markets, and wherein each of said markets. associated with the product or service offering may be defined in said database by a product or service provider or other authorized individual . . . .

Parenthetically, the Examiner further states that:

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<sup>1</sup> While the Examiner states that claims 224 through 226 were also rejected, no specific reasoning for the rejection of these claims has been provided.

. . . it is noted that it is not claimed that the markets are defined independently or that they are defined in the database with different levels of detail . . . .

Without conceding to the Examiner's characterizations or waiving any of Applicants' arguments presented in response to prior Official Actions, Applicants' have amended, without prejudice, independent Claims 179, 198, and 221 to include the following:

. . . each of said product and service offerings<sup>2</sup> is classified in said database in one or more geographic markets, and wherein each of said markets associated with each said product or service offering are may be defined independently or with different levels of detail in said database . . . . [Emphasis added.]

Accordingly, in view of the Examiner's distinction, and Applicants' amendment, Applicants respectfully submit that Claims 179, 198 and 221, are allowable as amended.

Turning now to the granularity of the market definition for each product and service made available by the instant invention, neither of the principal references cited by the Examiner, either teach or suggest a database wherein each of the markets associated with a product or service offering are defined independently or in different levels of detail, and, in any event, as specifically as a street address or subdivision of a street address. Specifically, *Let's Talk* requires the user to input no more geographic information than a zip code or a state. See *Let's Talk* at 3.<sup>3</sup> Thus, *Let's Talk* discloses no more than the ability to correspond a geographic market to goods or services available in that geographic market wherein the market is defined only as specifically as a particular zip code or a particular state. Thus, as with *McKinley*, *Let's Talk* does not disclose or suggest the database claimed by Applicants.

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<sup>2</sup> Claim 198 actually claims "product and service plans."

<sup>3</sup> Applicants have spent considerable time and resources in developing the method of this invention in order to achieve the level of geographic specificity required by the claims now pending. Applicants are prepared to submit an affidavit to this effect upon the Examiner's request.

In addition, neither *Let's Talk* nor *McKinley* teach or suggest receiving a geographic location in either variable geographic detail, or as specifically as a street address or subdivision of a street address. As discussed above, *Let's Talk* merely discloses receiving a particular zip code or a particular state. See *Let's Talk* at 3. Neither a street address, nor subdivision thereof, could be determined from such limited information.

In this regard, the Examiner states that *McKinley*:

. . . further discloses receiving a consumer's geographic location (i) in variable geographic detail, and (ii) as specifically as a street address or a subdivision of a street address . . . .

The Examiner further states, parenthetically, that:

. . . the geographic location taught by *McKinley* would include specific location such as a street address or a subdivision of a street address as claimed . . . .

Although *McKinley* does disclose a user entering the area code and the three character local exchange of a telephone number (see *McKinley* at Figure 6A, and Paragraph [0048]), *McKinley* does not teach or suggest receiving a geographic location in either variable geographic detail, or as specifically as a street address or subdivision of a street address.

Moreover, the Examiner further states that *McKinley* discloses the step of:

receiving a geographic location via the area code and phone exchange

*McKinley* does not disclose, nor do Applicants believe that it is possible to determine, the geographic location of a property as specifically as a street address or subdivision of a street address from merely an area code and phone exchange.<sup>4</sup> At the very least, the entire telephone

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<sup>4</sup> While it may be possible to determine an approximate geographic location from the area code and exchange of a telephone number, such location would be no more specific than a region, or possibly a city or town. However, the location identified would not be as specific as a street address or subdivision thereof. In fact, with the advent of cellular telephony, it is even less likely that area codes or exchange numbers could identify a specific geographic location with any level of certainty at all.

number would be required to determine the street address or subdivision of a street address, and then only if additional steps were taken to correlate the telephone number and street address.

Inasmuch as such granularity in geographic location would not be ascertainable from merely an area code and local exchange number, or a zip code or state, neither *McKinley* nor *Let's Talk* disclose or suggest a geographic location of a property wherein the geographic location may be identified as specifically as a street address or a subdivision of a street address.<sup>5</sup>

Accordingly, Applicants submit that each of independent Claims 179, 198 and 221, as amended, are patentable over *McKinley* in view of *LetsTalk*. In this regard, Applicants respectfully request reconsideration of the Examiner's rejection of independent Claims 179, 198, and 221 under 35 U.S.C. §103 (a).

In addition, because Claims 180 through 197 each depend either directly or indirectly from independent Claim 179, and further because Claims 199 through 220 depend either directly or indirectly from independent Claim 198, and because Claims 222 through 226 each depend either directly or indirectly from independent Claim 221, the Examiner's rejections of each of the dependent claims should be considered moot in view of the allowability of independent claims 179, 198 and 221 for the reasons discussed above. Accordingly, the *McKinley* and *LetsTalk* references, when considered alone or in combination, fail to render the invention as presently claimed herein unpatentable for obviousness under 35 U.S.C §103 (a). Applicants, therefore, respectfully request reconsideration of the Examiner's rejection of Claims 180 through 197, Claims 199 through 220, and Claims 222 through 226 under 35 U.S.C. §103 (a).

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<sup>5</sup> Applicants are prepared to submit an affidavit in support of the non-obviousness of Applicants invention upon the Examiner's request.

Also, and for at least the foregoing reasons, Applicants also consider newly presented Claims 227 through 232 to be in condition for allowance.

### **Official Notice**

Applicants have noted that the Examiner has taken Official Notice with respect to certain claim elements. With respect to Claims 184, 185, 203, and 204 the Examiner states that “it is notoriously old and well known in the art to allow a user to manage his account enabling him to pay for the service.” With respect to Claims 191 and 208, the Examiner states that is notoriously old and well known in the art to provide “an account for providing customization elements,” as evidenced in Tobin. Finally, with respect to Claims 192 and 209, the Examiner states that is notoriously old and well known in the art to provide “an account for tracking usage.”

In this regard, Applicants respectfully traverse the Examiner’s rejections based upon the Official Notice taken. In the context of Applicants’ invention, it is not necessarily obvious to provide for an account management facility, or provide a brand partner with an account for customization of customer accounts, or to track usage. Moreover, the data structure of Claim 190 comprises plan, package and feature components not disclosed in *Let’s Talk* or *McKinley*. Accordingly, Applicants submit that a proper §103 obviousness rejection would require that the references which are relied upon disclose the feature of the invention and present sufficient motivation to combine such references.

In view of the foregoing, and Applicants’ prior arguments, Applicants respectfully traverse the Examiner’s taking of Official Notice of the claim limitations set forth in the pending claims. Accordingly, and in the event that the Examiner maintains his rejections based upon Official Notice, Applicants respectfully request that the Examiner produce authority in the form of documentary evidence for the taking of Official Notice in each instance set forth in the Official Action. *See* MPEP §2144.03.

### **Request for Extension of Time**

Enclosed is a Request for a three month extension of time to respond to the instant Official Action, together with the fee associated therewith.

### **Request for Reconsideration**

In view of the foregoing, Applicants respectfully request that the Examiner reconsider his rejections of the claims now pending and permit the subject application to proceed to allowance.

In the course of the foregoing discussions, Applicants may have at times referred to claim limitations in shorthand fashion, or may have focused on a particular claim element. This discussion should not be interpreted to mean that the other limitations can be ignored or dismissed. The claims must be viewed as a whole, and each limitation of the claims must be considered when determining the patentability of the claims. Moreover, it should be understood that there may be other distinctions between the claims and the prior art which have yet to be raised, but which may be raised in the future.

### **Personal Interview**

Applicants respectfully request the courtesy of a telephonic interview upon the Examiner's receipt of this Amendment.

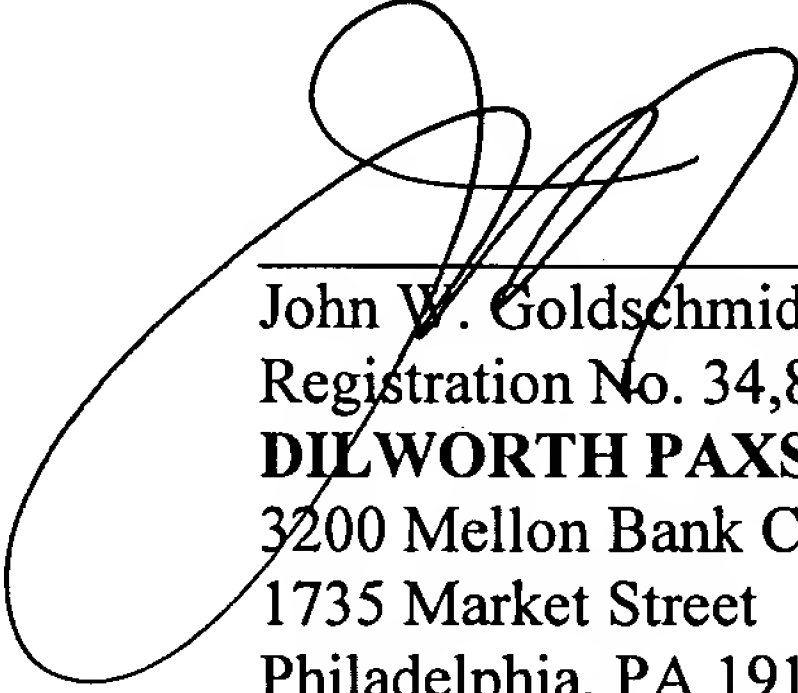
## CONCLUSION

Wherefore, Applicants believe that all outstanding grounds raised by the Examiner have been addressed and respectfully submit that the present application is in condition for allowance, early notification of which is earnestly solicited.

The Commissioner is hereby authorized to charge any deficiencies or credit any overpayment related to this submission to Deposit Account Number 50-0979.

Respectfully submitted,

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